

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEVIN PLUMMER,

Plaintiff,

Case No. 08-13280

Consolidated Cases: 07-14034

v.

08-11019

08-11022

AARON SHREWSBURY, *et al.*,

Defendants.

**ORDER DENYING MOTION FOR
CERTIFICATION TO APPEAL**

Before the court is Plaintiff Devin Plummer's motion for certification to appeal, filed February 8, 2010. Defendants filed a response on February 12, 2010, and Plaintiff filed a reply brief on the same day. The court did not hear oral argument.

Plaintiff seeks to appeal the court's grant of summary judgment in Defendants' favor. Plaintiff's case was consolidated with that of three other plaintiffs. The court's order granting summary judgment did not dispose of all claims against all parties in the consolidated cases. The order did, however, dispose of all of Plummer's claims.

Plummer seeks certification of his appeal pursuant to Fed. R. Civ. P. 54(b). Such certification is unnecessary, however. "This court has held that consolidated cases remain separate actions. Thus, a case which is disposed on summary judgment is appealable pursuant to 28 U.S.C. § 1291 despite the fact that the case with which it is consolidated has not been disposed." Beil v. Lakewood Engin. & Mfg. Co., 15 F.3d 546, 551 (6th Cir. 1994). Accordingly, the court will deny Plummer's motion, because he may appeal as of right pursuant to 28 U.S.C. §

1291.

IT IS HEREBY ORDERED that Plaintiff's motion for certification of appeal is DENIED.

s/John Corbett O'Meara
United States District Judge

Date: March 23, 2010

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, March 23, 2010, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager